

Maryland

Title 26 Department of the Environment

Subtitle 08 Water Pollution

26.08.04.00. Title 26 DEPARTMENT OF THE ENVIRONMENT Subtitle 08 WATER POLLUTION Chapter 04 Permits Authority: Environment Article, §1-601—1-606, 9-313, 9-315, 9-323—9-328, and 9-330; Annotated Code of Maryland

26.08.04.01. 01 Discharge Permits Required.. A. Issuance of Discharge Permits. The Department shall issue State discharge permits or NPDES permits in accordance with provisions and conditions of COMAR 26.08.01-26.08.04 and 26.08.08, to satisfy the regulatory requirements of the National Pollutant Discharge Elimination System (NPDES) established under the Federal Act.B. Activities for Which Discharge Permits Are Required. A person may not commit any of the following acts except as authorize

26.08.04.01-1. 01-1 Discharge Permit Application.. A. Application Required.. 1) Persons engaged or planning to engage in activities requiring a discharge permit shall file a complete application:a) Not less than 180 days in advance of the date on which the discharge permit is desired to commence the activities; andb) In sufficient time before the commencement of activities to ensure compliance with provisions of appropriate State and federal laws and regulations.2) Permittees holding an

26.08.04.01-2. 01-2 Discharge Permit Application Processing.. A. Informational Meetings.. 1) Upon written request by a person within 10 working days of the publication of a notice of application for a discharge permit, the Department shall hold an informational meeting to discuss the application.2) The Department also may hold an informational meeting or meetings at the Department's discretion.. 3) The informational meeting may be cancelled if all persons who made timely written requests withdr

26.08.04.01-3. 01-3 Discharge Permit Issuance and Contested Case Hearings.. A. Final Determination.. 1) If the Department is not required to prepare a final determination, the tentative determination shall be a final decision by the Department and a permit may be issued.2) The Department shall prepare a final determination if:. a) Written comments adverse to the tentative determination are received by the Department within 30 days after publication of the notice of tentative determination;

26.08.04.02. 02 Requirements for the Issuance and Reissuance of Discharge Permits.. A. General. The Department shall issue or reissue a discharge permit upon a determination that:. 1) The discharge or proposed discharge specified in the application is or will be in compliance with all applicable requirements of:a) Effluent limitations,. b) Surface and ground water quality standards,. c) The Federal Act,. d) State law or regulation,. e) Best available technology, and.

26.08.04.02-1. 02-1 Discharge Permit Limits.. A. General.. 1) Each discharge permit, unless inappropriate, shall specify average and maximum daily quantitative limits, in terms of weight, for the discharge of pollutants in the authorized discharge.2) Other discharge limits, such as minimum, average, or maximum concentration limits, may be imposed.3) If a schedule of compliance is included as a discharge permit condition, quantitative limits shall be set for the interim period as well as for the

26.08.04.02-2. 02-2 Minimum Levels for Discharge Permit Limits.. Some permit limits expressed as concentrations of specific chemicals may be below the minimum levels for those chemicals. For these permit limits, the level of compliance shall be the minimum level.

26.08.04.02-3. 02-3 Discharge Permit Limits Based on Biological Translator.. A. General. Biologically available equivalence addresses the potential for an effluent constituent, present primarily in the particulate or relatively non-bioavailable form, to become transformed by mixing with the receiving water to a bioavailable form. The biological translator utilizes the relationship between effluent-receiving water toxicity testing results and the laboratory standard dilutio

26.08.04.02-4. 02-4 Discharge Permit Limits Based on Chemical Translator.. A. General.. 1) The chemical translator is a mechanism for establishing the relationship between the dissolved concentration used in determining compliance with the instream aquatic life water quality criteria for metals and the measurement required for permit limits and waste load allocation.2) The chemical translator may not be used to establish discharge permit limits if the discharger has completed studies, unde

26.08.04.03. 03 Monitoring, Recording, and Reporting for Discharge Permits.. A. Monitoring.. 1) A discharge authorized by a discharge permit shall be subject to any monitoring requirements the Department deems necessary, including:a) The installation, use, and maintenance of monitoring equipment or methods; and. b) When appropriate, biological monitoring methods.. 2) Each permit shall specify the sampling and analysis requirements, including the frequency and type of sampling and analysis.

26.08.04.04. 04 Sewage Treatment Works.. A. The person holding the permit for publicly owned treatment works or other sewage treatment works shall provide the Department with a notice concerning:1) The introduction of pollutants into these treatment works from any discharge of industrial waste for which a State discharge permit would be required if the discharge were made directly to the waters of the State; or2) Any substantial change in volume, character, or concentration of polluta

26.08.04.05. 05 Reserved..

26.08.04.06. 06 Term and Approval of Discharge Permit.. A. Term of Permit.. 1) The term of each discharge permit shall be for a maximum of 5 years, unless the permit is previously amended, suspended, or revoked.2) Each discharge permit shall specify the expiration date.. 3) If a timely and complete reapplication has been submitted and the Department, through no fault of the permittee, is unable to issue a new permit, the terms and conditions of the existing discharge permit shall continue and

26.08.04.07. 07 Administration of Federal NPDES Program by the State.. A. The Department shall administer the National Pollutant Discharge Elimination System (NPDES) program as part of its own discharge permit system.B. This administration shall be in accordance with:. 1) Environment Article, Title 9, Annotated Code of Maryland;. 2) This chapter; and. 3) The Federal Act..

26.08.04.08. 08 General Discharge Permit Program.. A. Purpose.. 1) General permits are discharge permits issued to classes of discharges.. 2) The Department intends to regulate certain classes of discharges through the issuance of general permits.3) All discharges within the described class are permitted, subject to the specific conditions contained in the general permit.4) Only those classes of discharges considered appropriate by the Department for regulation by this mechanism will be covered

26.08.04.09. 09 General Discharge Permits.. A. General Discharge Permit for Storm Water Discharge Associated with Construction Activity.. 1) Exception. Construction activity excluded under the Federal Act and regulated under COMAR 26.09.02 is not covered under this general permit.2) Activities Covered. Activities covered under this general permit are new and existing storm water discharges that are composed in whole or in part of discharges associated with construction activit

26.08.04.09-1. 09-1 Fees for General Discharge Permits.. A. Applicability.. 1) Intent. The Department may charge nonrefundable fees for certain general discharge permits as specified in this regulation.2) Exemptions. Discharges associated with the following dischargers are exempt from this regulation:. a) Publicly owned treatment works;. b) Other treatment works which treat only sewage; and. c) Facilities or persons culturing or raising aquatic organisms in enclosed systems discharging less

26.08.04.10. 10 Permit Review and Modification.. A. General.. 1) The Department may review or modify any State discharge permit or other written authorization describing required performance for specific activities and operations under the procedures set forth in this regulation.2) When a permit is modified, only the conditions subject to modification are reopened.. B. Permit Review. The Department of the Environment may review any permit which it has issued in order to determine whether the:

26.08.04.10-1. 10-1 Permit Suspension and Revocation.. A. Action on Permit Violation.. 1) Under conditions other than emergency, if the Department determines that there has been a violation of any term or condition of a permit, the Department shall serve a written complaint upon the permittee specifying the nature of the violation. Subsequent to, or concurrent with, service of the complaint, the Department may exercise one of the following options, under the provisions of Environmen

26.08.04.11. 11 Discharge Permit Fees.. A. General Requirements.. 1) Fees collected by the Department under this regulation shall be paid into the Maryland Clean Water Fund. The fees shall be used for activities that are related to identifying, monitoring, and regulating the proper discharge of effluent into waters of the State including program development of these activities.2) Persons or facilities holding or obtaining State discharge permits, except for those in categorie

26.08.04.9999. Administrative History Effective date: September 1, 1974 (1:1 Md. R. 33). COMAR 10.50.01.08, .09, .12, and .14 recodified to COMAR 26.08.04.01, .02, .03, and .04, respectivelyCOMAR 10.50.01.08J-1 recodified to COMAR 26.08.08.01—04. Regulation .01B, N amended effective August 3, 1981 (8:15 Md. R. 1308). Regulation .01E amended effective June 6, 1983 (10:11 Md. R. 976). Regulation .01G amended effective July 27, 1987 (14:15 Md. R. 1660). Regulation .01J amended e

Title 26 DEPARTMENT OF THE ENVIRONMENT

Subtitle 08 WATER POLLUTION

Chapter 04 Permits

Authority: Environment Article, §§1-601—1-606, 9-313, 9-315, 9-323—9-328, and 9-330; Annotated Code of Maryland

26.08.04.01 Discharge Permits Required.

A. Issuance of Discharge Permits. The Department shall issue State discharge permits or NPDES permits in accordance with provisions and conditions of COMAR 26.08.01-----26.08.04 and 26.08.08, to satisfy the regulatory requirements of the National Pollutant Discharge Elimination System (NPDES), established under the Federal Act.

B. Activities for Which Discharge Permits Are Required. A person may not commit any of the following acts except as authorized by a discharge permit issued by the Department:

(1) Discharge into the waters of the State any waters in excess of 10,000 gallons per day, as a monthly average, whether the waters are derived from a ground water source, or from a surface water source, or from any other source, with the exception of storm water runoff that is not regulated under the Federal Act.

(2) Except as provided in COMAR 26.08.02.09A(3) and Regulation .08 of this chapter, discharge into the waters of this State any waste or wastewater regardless of volume.

(3) Construct, install, modify, extend, alter, or operate any system for the disposal of waste or wastewater into the waters of the State, or a system which may result in a discharge into these waters, regardless of quality or volume, with the exception of storm water runoff that is not regulated under the Federal Act.

(4) Increase or otherwise modify in volume, temperature, or concentration, any existing waste or wastewater in excess of the discharges authorized by any existing discharge permit. To the extent that the modification is in excess of limits specified in a discharge permit, the permittee shall report the change to the Department within 1 week of the commencement of the modification. This report shall include information on what, how, and why modifications were made and whether they will be temporary or permanent.

(5) Construct, install, or operate any industrial, commercial, or other establishment or any extension or modification or addition to them, including the construction or use of any new discharge outlet, the construction, installation, or operation of which would cause an increase in the discharge of waste or wastewater into the waters of the State or otherwise alter the physical, chemical, or biological properties of any waters of the State in any manner not lawfully authorized.

26.08.04.01-1 Discharge Permit Application.

A. Application Required.

(1) Persons engaged or planning to engage in activities requiring a discharge permit shall file a complete application:

(a) Not less than 180 days in advance of the date on which the discharge permit is desired to commence the activities; and

(b) In sufficient time before the commencement of activities to ensure compliance with provisions of appropriate State and federal laws and regulations.

(2) Permittees holding an active discharge permit shall file an updated application not less than 180 days in advance of the expiration date on that discharge permit.

(3) Permittees no longer engaging in activities requiring a discharge permit shall notify the Department of the change in status of their facility within 30 days of ceasing the actions requiring a discharge permit.

B. Requirements.

(1) Applications shall be made on the appropriate State discharge or NPDES application forms.

(2) The following information shall be submitted with the completed application:

(a) Name of any affiliate;

(b) Permit numbers for any State discharge or NPDES permits presently held by the applicant or his affiliate;

(c) Identification of administrative complaints or orders, if any, against the operation of the applicant or his affiliate; and

(d) The location of all sites involved in the storage of solid or liquid waste and the ultimate disposal sites of solid or liquid waste from any treatment system.

(3) If the discharge is from a new facility, preliminary plans and specifications, sufficiently adequate in scope and form to enable the Department to evaluate the proposed facility, shall be submitted with the application.

(4) The Department may require that an applicant for a discharge permit provide additional reports, specifications, plans, or other information on the existing or proposed pollution control program, including a material balance if considered necessary.

(5) Required Signatures. The application for a State discharge or NPDES permit shall be signed by a responsible official, as follows:

(a) For a corporation, by a responsible corporate officer such as:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

(ii) The manager of one or more manufacturing, production, or operating facilities employing more than 250 individuals or having gross annual sales or expenditures exceeding \$25 million, in second-quarter 1980 dollars, if authority to sign documents has been assigned or delegated to the manager according to corporate procedures;

(b) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;

(c) For a municipal, State, or other public agency, by either a principal executive officer, ranking elected official, or other duly authorized employee; or

(d) For a federal agency, by a principal executive officer that includes:

(i) The chief executive officer of the agency, or

(ii) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency such as a regional administrator of the EPA.

C. Application Fee. Each application shall be accompanied by a fee in the amount established by the Department in Regulation .11 of this chapter. The Department shall inform the applicant of the applicable fee which shall be paid by check or money order, made payable to the Department.

D. Receipt of Application. Upon receipt of an application, the Department shall:

(1) Notify the applicant that:

- (a) The application has been received,
- (b) The applicant is responsible for the cost of the public notice required under the provisions of this chapter and for transcripts from any informational meetings or public hearings,
- (c) The applicant or the applicant's representative may be required to attend all public informational meetings and public hearings,
- (d) Failure to pay the costs of public notification or failure to attend the public informational meetings or public hearings may result in the Department not approving the applicant's permit; and

(2) Publish according to §E of this regulation a notice of application that includes the following:

- (a) The name of the applicant,
- (b) The type of permit applied for,
- (c) The type of proposed discharge,
- (d) The volume of the proposed discharge,
- (e) The location of the proposed discharge,
- (f) A statement that persons may review and copy the application or related material and the procedure for doing so,
- (g) A statement that the Department shall hold an informational meeting, if a person makes a written request within 10 working days of the publication of the notice, and the procedure for requesting an informational meeting, and
- (h) Other information the Department determines is necessary for adequate public notification.

E. Public Notice and Access to Information and Confidential Information.

(1) The applicant shall pay the cost of all public notice required by this chapter.

(2) When this chapter requires publication of public notice, the Department shall publish or shall require the applicant to publish the notice at least once a week for 2 consecutive weeks in a daily or weekly newspaper of general circulation in the geographical area in which the proposed discharge is to be located.

(3) The Department may post or require the applicant to post the notice at the site of the proposed discharge or at public facilities in the geographical area of the proposed discharge.

(4) The Department shall maintain lists of persons, government agencies, and other concerned groups to which notice is sent concerning discharge permits.

(5) The Department shall provide notice of an informational meeting or a public hearing by mail to each person requesting the meeting or hearing or to the person's authorized representatives.

(6) The Department shall ensure that any State discharge or NPDES permit application and its supporting information, including any public comment concerning the application, shall be available to the public for inspection and copying.

(7) The Department shall provide facilities for the inspection of the State discharge or NPDES permit application and its supporting information and ensure that State employees respond to requests for inspection promptly without undue requirements or restrictions. The Department shall either:

- (a) Ensure that a machine or device for the copying of papers and documents is available for a reasonable fee; or
 - (b) Otherwise provide for, or coordinate with, copying facilities or services so that requests for copies of nonconfidential documents may be responded to promptly.
- (8) Protection of Information.
- (a) Except for effluent data, the Department shall protect any information contained in an NPDES application, or other records, reports, or plans, as confidential upon a showing by a person that the information, if made public, would divulge methods or processes entitled to protection as the person's trade secrets.
 - (b) If the information being considered for confidential treatment is contained in an NPDES application, the Department shall forward this information to the EPA for concurrence in any determination of confidentiality.
 - (c) If the EPA determines that some or all of the information being considered for confidential treatment does not merit this protection, and communicates to the Department that it is the EPA decision not to concur in the withholding of the information, the Department shall:
 - (i) Notify the applicant of EPA's decision; and
 - (ii) After ascertaining that the applicant has exhausted or waived the EPA appeal process concerning confidentiality of business information, make available to the public, upon request, that information determined not to constitute trade secrets.
- (9) Any information accorded confidential status, whether or not contained in an NPDES application, shall be disclosed, upon request, to an authorized EPA representative, who shall maintain the disclosed information as confidential.

26.08.04.01-2 Discharge Permit Application Processing.

A. Informational Meetings.

- (1) Upon written request by a person within 10 working days of the publication of a notice of application for a discharge permit, the Department shall hold an informational meeting to discuss the application.
- (2) The Department also may hold an informational meeting or meetings at the Department's discretion.
- (3) The informational meeting may be cancelled if all persons who made timely written requests withdraw their requests before the meeting.
- (4) The Department may require the applicant to attend all informational meetings and present information concerning the application.
- (5) If an informational meeting is required, the Department shall publish or require the applicant to publish notice of the informational meeting, unless the notice of application contained a notice of the informational meeting. This notice shall:
 - (a) Conform to the requirements of Regulation .01-1E of this chapter; and
 - (b) Contain:
 - (i) The information required under Regulation .01D of this chapter,
 - (ii) The date, time, and location of the informational meeting, and
 - (iii) Other information the Department determines to be necessary for adequate public notice.
- (6) When the notice of the informational meeting also contains a notice of public hearing, the first notice of public hearing shall be given at least 30 days before the hearing.

B. Tentative Determination.

(1) Preparation of Tentative Determination and Fact Sheet.

(a) After the Department receives the discharge permit application, the Department shall prepare a tentative determination, which shall include:

(i) The name of the applicant;

(ii) A proposal to issue or not issue the permit;

(iii) The type, volume, and location of the proposed discharge;

(iv) Proposed permit limitations and conditions;

(v) A brief explanation of the Department's tentative decision;

(vi) If applicable, a proposed schedule of compliance;

(vii) A brief summary, if appropriate, concerning the development of a site-specific criterion, use of a biological or chemical translator for derivation of permit limits, or a temporary permit modification; and

(viii) Other information the Department considers necessary.

(b) When the tentative determination is to issue a discharge permit, the tentative determination shall include a draft permit, which shall be available to the public for inspection and copying.

(c) The Department shall prepare a fact sheet as required by the Federal Act for all proposed permits for major facilities.

(2) Publication of Notice of Tentative Determination.

(a) The Department shall publish or require the applicant to publish the notice of tentative determination according to Regulation .01-1E of this chapter.

(b) The notice of tentative determination shall include:

(i) The information in §B(1)(a) of this regulation;

(ii) The procedures for a person to review and copy the tentative determination, draft permit, or related material;

(iii) A statement allowing 30 days for public comment to the notice of tentative determination before the issuance of the final determination and the procedures for offering public comment;

(iv) A statement that the Department shall hold a public hearing when a written request for a public hearing is made within 20 days of the publication of the notice of tentative determination and the procedure for making a written request for a public hearing; and

(v) Other information the Department considers necessary to ensure adequate public notice.

(c) When the notice of tentative determination also includes a notice of public hearing, the first notice of public hearing shall be given at least 30 days before the hearing.

(3) Mailing List for the Notice of Tentative Determination and Fact Sheet.

(a) The notice of tentative determination shall be mailed to any other state whose waters may be affected by the issuance of a permit, so that the affected state may submit written comments to the Department and to the EPA.

- (b) The notice of tentative determination and, if prepared, a fact sheet, shall be mailed, unless waived, to the appropriate district engineer of the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service.
- (c) Upon written request by a person, the Department shall add the name of that person to a mailing list to receive a copy of the notice of tentative determination and fact sheet, if prepared, for a specific NPDES permit application.
- (4) Obligation of Discharger to Notify Department. A person who desires to apply for a site-specific criterion, biological translator, or chemical translator shall notify the Department before the later of the end of the comment period established:
- (a) In the notice of tentative determination; or
- (b) For the public hearing.
- (5) Public Hearing.
- (a) The Department shall schedule a public hearing on the tentative determination when a written request for a public hearing is made within 20 calendar days of the publication of the notice of tentative determination.
- (b) The Department may schedule a public hearing on a State discharge or NPDES permit at the Department's discretion.
- (c) The public hearing may be cancelled if all persons who made timely written requests withdraw the requests before the hearing.
- (d) The applicant, if requested by the Department, shall provide information concerning the application.
- (e) If the Department requires the applicant to attend the public hearing, failure of the applicant to attend the hearing and present information may result in the Department not issuing the permit.
- (f) A person shall be given an opportunity to present information at the public hearing concerning the tentative determination.
- (g) The Department shall accept written comments for 5 calendar days after the date of the public hearing.
- (h) The applicant shall be responsible for the cost of preparing and obtaining a transcript of public hearings.
- (6) Notice of Public Hearing.
- (a) If a public hearing is scheduled, a notice of the hearing shall be published according to Regulation .01-1E of this chapter. The first notice shall give a minimum of 30 days notice before the hearing.
- (b) The notice of public hearing shall include:
- (i) The name of the applicant;
- (ii) The type of discharge permit to be discussed at the public hearing, including the volume of the proposed discharge;
- (iii) The location of the proposed discharge;
- (iv) A brief description of the proposed permit conditions and limitations, proposed schedule of compliance, and any proposed special conditions including procedures for obtaining access to or copies of the tentative determination;
- (v) Information concerning the date, time, and location of the public hearing; and
- (vi) Other information the Department determines to be necessary for adequate public notification.
- (c) The Department shall provide the applicant with a copy of the notice of public hearing.

26.08.04.01-3 Discharge Permit Issuance and Contested Case Hearings.

A. Final Determination.

- (1) If the Department is not required to prepare a final determination, the tentative determination shall be a final decision by the Department and a permit may be issued.
- (2) The Department shall prepare a final determination if:
 - (a) Written comments adverse to the tentative determination are received by the Department within 30 days after publication of the notice of tentative determination;
 - (b) Comments adverse to the tentative determination were received in writing at, or within 5 days after, a public hearing held according to Regulation .01-2B(5) of this chapter;
 - (c) Comments adverse to the tentative determination were received orally at the public hearing conducted under this section and the Department prepared a transcript of the comments made at the hearing; or
 - (d) The final determination is substantively different from the tentative determination and all persons who may be aggrieved by the final determination have not waived, in writing, their right to request a contested case hearing.
- (3) Those persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Department's tentative determination is inappropriate, shall raise all reasonably ascertainable issues and submit all reasonably available arguments and documents supporting their position by the close of the public comment period, including any public hearing, as established by this chapter.
- (4) Supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials.
- (5) Those offering comments shall make supporting materials not already included in the administrative record available by submitting a complete copy of all supporting materials at the time they submit their comments, or, if this submission is not practical, as determined solely by the Department, comments shall identify the location of the supporting materials.
- (6) The final determination shall include:
 - (a) The name of the applicant;
 - (b) The type of discharge;
 - (c) The location of the discharge;
 - (d) The volume of the discharge;
 - (e) A statement of the Department's final determination and a brief explanation of the Department's decision;
 - (f) The permit limitations and conditions; and
 - (g) A schedule of compliance, if applicable.
- (7) The final determination shall be available to the public for inspection and copying according to Regulation .01-1E of this chapter.

B. Notice of Final Determination.

- (1) When the Department is required to prepare a final determination under §A of this regulation, a notice of final determination shall be published according to Regulation .01-1E of this chapter.

(2) The notice of final determination shall be published in the same newspapers as the notice of hearing.

(3) The notice of final determination shall include:

(a) The information contained in the final determination required by §A(3)(a)------(e) of this regulation, and any limitations, change in permit conditions, or schedule of compliance;

(b) A statement that the notice of final determination is available for inspection and copying;

(c) The procedure for inspection and copying of the final determination;

(d) A statement that a person may request a contested case hearing to appeal a final determination if the person makes factual allegations with sufficient particularity to demonstrate that the person is aggrieved by the final determination and the final determination is:

(i) Legally inconsistent with any provisions of law applicable to the final determination being challenged, or

(ii) Based upon an incorrect determination of a relevant and material fact;

(e) A statement that a person requesting a contested case hearing shall submit a written request for adjudication within 15 days after publication of the notice of final determination;

(f) The procedure for requesting a contested case hearing; and

(g) Other information the Department determines to be necessary for adequate public notification.

C. Request for Contested Case Hearing.

(1) A person may not request a contested case hearing based on, or in a contested case hearing may not challenge, a facility's compliance with zoning and land use requirements or conformity with a county plan issued under Environment Article, Title 9, Subtitle 5, Annotated Code of Maryland. This regulation does not prevent a party from contesting the compliance of the facility with zoning and land use or county plan requirements in any proceeding brought in accordance with or under any applicable local laws.

(2) A person requesting a contested case hearing to appeal a final determination shall:

(a) Submit a written request in the manner specified in the notice of final determination within 15 days after publication of the notice of final determination; and

(b) Provide documentation that the requirements of §A of this regulation were met.

(3) A request for a contested case hearing shall include:

(a) The name, address, and telephone number of the person filing the request;

(b) The particular factual allegations which demonstrate that the:

(i) Person is aggrieved by the final determination, and

(ii) Final determination is legally inconsistent with any provisions of law applicable to the final determination being challenged or is based on an incorrect determination of a relevant and material fact.

(4) The request for a contested case hearing shall be processed and the hearing conducted in accordance with the provisions of State Government Article, Title 10, Subtitle 2, and Environment Article, Title 1, Subtitle 6, Annotated Code of Maryland.

26.08.04.02 Requirements for the Issuance and Reissuance of Discharge Permits.

A. General. The Department shall issue or reissue a discharge permit upon a determination that:

(1) The discharge or proposed discharge specified in the application is or will be in compliance with all applicable requirements of:

(a) Effluent limitations,

(b) Surface and ground water quality standards,

(c) The Federal Act,

(d) State law or regulation,

(e) Best available technology, and

(f) Federal effluent guidelines;

(2) The discharge or proposed discharge from publicly owned treatment works (POTW) or other sewage treatment works, and the sewerage systems, including the pumping stations, which serve the POTW or other treatment works, are in compliance with:

(a) The continuing planning process required under §303(e) of the Federal Act; and

(b) The approved county water and sewerage plan adopted under Environment Article, Title 9, Subtitle 5, Annotated Code of Maryland;

(3) The provisions of existing discharge permits, as issued, and any outstanding administrative orders affecting the applicant or his affiliate have been or are being complied with by the applicant and his affiliate;

(4) Industrial waste treatment works, publicly owned treatment works, or other sewage treatment works are operated and maintained by a certified operator under the provisions of Environment Article, Title 12, Annotated Code of Maryland, and applicable regulations; and

(5) The requirements of Regulations .01, .01-1, and .01-2 of this chapter have been met.

B. Conformance with Federal Act. In the absence of formally promulgated effluent standards and limitations under the Federal Act, the Department shall apply, in the terms and conditions of issued discharge permits, effluent limitations to achieve the purpose of the Federal Act.

C. Compliance Schedule.

(1) The Department may impose a compliance schedule as a condition of a permit for existing discharges which do not comply with permit conditions, effluent limits, or water quality standards.

(2) When a compliance schedule is imposed, the Department shall:

(a) Require the permittee to achieve compliance within:

(i) Applicable periods established in effluent limitations or water quality standards, or

(ii) In the absence of any legally applicable schedule of compliance, the shortest reasonable time consistent with the requirements of the Federal Act and State law or regulation;

(b) Set for each compliance schedule that is longer than 9 months, interim dates of 9 months or less for:

(i) Compliance with interim requirements, or

- (ii) Submission of reports of progress toward completion of the interim requirements;
- (c) Require the permittee to provide written notice of the permittee's compliance or noncompliance with the interim or final requirements within 14 days following each interim or final compliance date;
- (d) Prepare and report to the EPA on the last day of February, May, August, and November, a list of all instances occurring in the quarter before the report where the permittee failed to:
 - (i) Comply with an interim or final requirement, or
 - (ii) Notify the Department of compliance or noncompliance with each interim or final requirement; and
- (e) Make available to the public for inspection and copying, the quarterly lists reporting failure to comply with compliance schedules.
- (3) The compliance schedule may be modified according to Regulation .10D of this chapter.

26.08.04.02-1 Discharge Permit Limits.

A. General.

- (1) Each discharge permit, unless inappropriate, shall specify average and maximum daily quantitative limits, in terms of weight, for the discharge of pollutants in the authorized discharge.
- (2) Other discharge limits, such as minimum, average, or maximum concentration limits, may be imposed.
- (3) If a schedule of compliance is included as a discharge permit condition, quantitative limits shall be set for the interim period as well as for the period following the final compliance date.

B. Net Credits. The discharge permit limits for the discharge of noncontact cooling water shall be based on the water quality standard unless the discharger applies to have the permit limits based on the concentration in the intake water. A discharger may make this application if:

- (1) The intake water is the receiving water;
- (2) The pollutant concentration in the intake water exceeds the water quality standard;
- (3) Except for the additional provisions of a compliance schedule for corrosion and erosion in § C of this regulation, the discharger demonstrates to the Department's satisfaction, using a statistically rigorous demonstration, that no significant difference exists, at the edge of the appropriate mixing zone, between the intake concentration or loading and the effluent concentration or loading of the pollutant which exceeds the water quality standard; and
- (4) The discharger demonstrates to the Department's satisfaction that no other activity, condition, method of operation, or materials used or produced at the facility which results in the introduction of wastewater into the facility's discharge (including entrainment of pollutants previously discharged or disposed of by the facility), significantly contributes to the exceedance of surface water quality standards.

C. Corrosion and Erosion.

- (1) Reasonable Potential. A discharger will not be found to cause, have the reasonable potential to cause, or contribute to an exceedance of a numerical water quality standard for a pollutant caused by normal corrosion and erosion from a facility's water distribution piping and appurtenances or associated with intake water from a municipal drinking water supply, if:
 - (a) The facility is an existing facility as of the effective date of this section;

- (b) The permitted dry-weather discharge from the facility consists of a combination of drinking fountain drainage, fire protection system drainage, and interior atmosphere control equipment drainage;
- (c) The total annual estimated dry-weight mass loading for the pollutant of concern of the permitted dry-weather discharge from the facility does not exceed 5 pounds;
- (d) The annual average effluent concentration of the permitted dry-weather discharge at the facility does not exceed the ambient concentration of the pollutant of concern in the facility's receiving water body; and
- (e) The discharger's receiving water body for the discharge is not a Use III or Use III-P water.

(2) Compliance Schedule for Noncontact Cooling Water Discharges.

(a) For purposes of this section, normal corrosion and erosion shall be determined through site-specific calculations that are performed in accordance with scientifically defensible methodology approved by the Department and are based, where appropriate, on annual average intake concentrations.

(b) In establishing discharge permit limits on the basis of either water quality standards or intake water pollutant concentrations, the Department may grant a credit for normal corrosion and erosion associated with the discharging facility's noncontact cooling water condenser tubes, if the discharger:

(i) Demonstrates that, in the absence of the pollutant corroded and eroded from the facility's piping and appurtenances or noncontact cooling water condenser tubes, the discharger would not exceed the otherwise applicable permit limit;

(ii) Demonstrates that the normal corrosion and erosion associated with the intake water used by the facility for noncontact cooling water is sufficient to cause an exceedance of the otherwise applicable permit limit; and

(iii) Has entered into a consent order requiring that, within 5 years after the promulgation of this regulation or the permit expiration date at the time of promulgation, whichever is later, sufficient noncontact cooling water condenser tubes or other piping and appurtenances for noncontact cooling water will be modified, replaced, or repaired, to consist of noneroding and noncorroding materials, until the need for the corrosion/erosion credit is eliminated.

(c) The Department may reduce or deny the credit if any other activity, condition, method of operation, or material used or produced at the facility results in the increase of the erosion and corrosion-based pollutant in the facility's discharge (including entrainment of a pollutant previously discharged or disposed of by the facility) and significantly contributes to the exceedance of the water quality standard for that pollutant in the receiving water.

D. Mixing Zones.

(1) When any effluent meets water quality criteria at the end of the discharge pipe, the Department may not require the discharger to submit mixing zone calculations.

(2) When mixing zones are used to establish discharge permit limits, the discharger, at the time of application for permit issuance or renewal, or at a later time stipulated by the Department, shall select the mixing zone technique appropriate for each discharge and submit actual mixing zone calculations. All calculations and supporting studies should be based on established criteria and protocols or otherwise performed in accordance with scientifically defensible methodology approved by the Department. Supporting documentation may include one or more of the following:

- (a) Tracer studies;
- (b) Receiving water and discharge flow measurements;
- (c) Surface water bathymetry;
- (d) Diffuser design and performance data; and
- (e) Effluent modeling results.

(3) When a mixing zone has been previously used to establish permit limits, the Department may, in its discretion, waive the requirement for full mixing zone development if the discharger demonstrates that:

- (a) Discharge conditions have not changed; and
- (b) No surface water impacts attributable to the facility have been identified.

26.08.04.02-2 Minimum Levels for Discharge Permit Limits.

Some permit limits expressed as concentrations of specific chemicals may be below the minimum levels for those chemicals. For these permit limits, the level of compliance shall be the minimum level.

26.08.04.02-3 Discharge Permit Limits Based on Biological Translator.

A. General. Biologically available equivalence addresses the potential for an effluent constituent, present primarily in the particulate or relatively non-bioavailable form, to become transformed by mixing with the receiving water to a bioavailable form. The biological translator utilizes the relationship between effluent-receiving water toxicity testing results and the laboratory standard dilution water toxicity data to relate an instream aquatic life criterion to the impact of a specific effluent. This ratio provides discharge-specific information concerning the assimilative capacity of the surface water for a specific pollutant when contained in a particular discharge.

B. Discharge Requirements for Use of the Biological Translator.

(1) Before the use of a biological translator in a waste load allocation to determine specific discharge permit limits, a discharger shall demonstrate:

(a) For acute aquatic life criteria, a history of repeated whole effluent toxicity testing at four consecutive quarterly intervals where the effluent, upon allowance for confirmation tests on failures, consistently exhibits an LC_{50} greater than 100 percent;

(b) For chronic aquatic life criteria, a history of repeated whole effluent toxicity testing at four consecutive quarterly intervals where the effluent, upon allowance for confirmation tests on failures, consistently exhibits an IC_{25} greater than the instream waste concentration at the edge of the chronic mixing zone; and

(c) Achievement of best available technology with satisfactory operation and maintenance.

(2) The discharger shall continue to demonstrate, as appropriate, through whole effluent toxicity testing at quarterly intervals, as required by the discharge permit:

(a) An LC_{50} which, upon allowance for confirmation tests for failures, consistently exceeds 100 percent; or

(b) An IC_{25} which, upon allowance for confirmation tests for failures, consistently exceeds the instream waste concentration at the edge of the chronic mixing zone.

(3) To have the Department continue using a biological translator to derive permit limits, a discharger shall repeat the process of data collection and effects ratio calculation each time the permit is renewed or changed to assure that all factors influencing the effluent-receiving water effects ratio remain the same.

(4) The discharger shall demonstrate that no new BAT is available at each permit renewal.

(5) The discharger shall provide all the necessary data to support the biological translator to the satisfaction of the Department.

C. Procedure.

(1) Notification. A discharger who wants permit limits developed using the biological translator shall notify the Department in writing in accordance with Regulation .01-2B of this chapter. This notification shall include:

- (a) The substance or substances for which biologically available equivalence limits are to be developed;
- (b) The data demonstrating that the preconditions specified in §B of this regulation have been met; and
- (c) The proposed methodology for deriving the biological translator, including sampling times and locations, effluent dilutions, species to be tested, and laboratory quality assurance/quality control procedures.

(2) Time for Completion of Studies. A discharger, having notified the Department as required by §C(1) of this regulation, shall complete all studies supporting use of the biological translator and apply to the Department for approval of the biological translator within 12 months after this notification.

(3) Application. An application for the biological translator shall include the:

- (a) Substance or substances for which biologically available equivalence limits are to be developed;
- (b) Most recent data collected to satisfy the preconditions in §B of this regulation; and
- (c) Data supporting the biological translator.

(4) Development of the Biological Translator. The biological translator shall be developed in accordance with "Guidelines for the Use of a Biological Translator in Wasteload Allocations", (MDE-WMA-003, March 16, 1992), which is incorporated by reference, and current EPA sampling and testing procedures listed in the 1994 Interim Guidance on Determination and Use of Water-Effect Ratios for Metals (EPA-823-B-94-001) or the 2001 Streamlined Water-Effect Ratio Procedure for Discharges of Copper (EPA-822-R-01-005), which are incorporated by reference.

(5) Time for Department Action on Application. The Department shall complete its review and either approve or deny use of the biological translator within 6 months after receipt of the application.

(6) Use of the Biological Translator. When the Department has completed its review and determined that the supporting data are satisfactory, the Department shall use the resulting ratio with the appropriate water quality criterion to obtain a revised value for use in the derivation of a permit limit.

(7) Unsatisfactory Biological Translator. If the Department determines that the data supporting the biological translator are unsatisfactory, the Department may not use the resulting ratio. The discharger shall be required by the Department to revise the application or select an alternative approach for establishing permit limits.

(8) Public Participation. Those permit limits developed using the biological translator shall be included in the draft NPDES permit and in the public participation process for permit review.

26.08.04.02-4 Discharge Permit Limits Based on Chemical Translator.

A. General.

(1) The chemical translator is a mechanism for establishing the relationship between the dissolved concentration used in determining compliance with the instream aquatic life water quality criteria for metals and the measurement required for permit limits and waste load allocation.

(2) The chemical translator may not be used to establish discharge permit limits if the discharger has completed studies, under Regulation .02-3 of this chapter, which support the use of the biological translator.

B. Discharge Requirements for Use of the Chemical Translator.

(1) Before the use of a chemical translator in a waste load allocation to determine specific discharge permit limits, a discharger shall demonstrate:

(a) For acute aquatic life criteria, a history of repeated whole effluent toxicity testing at four consecutive quarterly intervals where the effluent, upon allowance for confirmation tests of failures, consistently exhibits an LC[50] greater than 100 percent;

(b) For chronic aquatic life criteria, a history of repeated whole effluent toxicity testing at four consecutive quarterly intervals where the effluent, upon allowance for confirmation tests on failures, consistently exhibits an IC[25] greater than the instream waste concentration at the edge of the chronic mixing zone; and

(c) Achievement of best available technology with satisfactory operation and maintenance.

(2) The discharger shall continue to demonstrate, as appropriate, through whole effluent toxicity testing at quarterly intervals throughout the period of the permit:

(a) An LC[50] which, upon allowance for confirmation tests for failures, consistently exceeds 100 percent; or

(b) An IC[25] which, upon allowance for confirmation tests for failures, consistently exceeds the instream waste concentration at the edge of the chronic mixing zone.

(3) To have the Department continue using a chemical translator to derive permit limits, a discharger shall repeat the process of data collection and calculation each time the permit is renewed or changed to assure that all factors influencing the chemical translator remain the same.

(4) The discharger shall demonstrate that no new BAT is available at each permit renewal.

(5) The discharger shall provide all the necessary data to support the chemical translator to the satisfaction of the Department.

C. Procedure.

(1) Notification. A discharger who wants permit limits developed using the chemical translator shall notify the Department in writing in accordance with Regulation .01-2B(4) of this chapter. This notification shall include:

(a) The metal or metals for which chemical translator limits are to be developed;

(b) The data demonstrating that the preconditions in §B of this regulation have been met; and

(c) The proposed methodology for deriving the chemical translator, including sampling times and locations, analytical methods, and all quality assurance/quality control procedures.

(2) Time For Completion of Studies. A discharger, having notified the Department as required by §C(1) of this regulation, shall complete all necessary studies supporting the use of the chemical translator and apply to the Department for approval of the chemical translator within 12 months of this notification.

(3) Application. An application for the chemical translator shall include the:

(a) Substance or substances for which the chemical translator limits are to be developed;

(b) Most recent data collected to satisfy the preconditions in §B of this regulation; and

(c) Data supporting the chemical translator developed permit limits.

(4) Development of Chemical Translator. The chemical translator is a ratio designed to estimate concentrations of total recoverable metal from a water quality criterion applied as dissolved metal. This ratio shall be developed using one of the following methods:

(a) The discharger demonstrates, to the satisfaction of the Department, the ratio between dissolved and total recoverable metal concentrations through the collection and evaluation of appropriate field data; or

(b) For fresh receiving waters only, the discharger uses the following ratio of total recoverable (C[T]) to dissolved (C) metal concentrations:

CT divided by C = $1 + K_p[ss] \times 10^{(-6\text{th power})}$, where

(i) K_p is the linear partition coefficient in the units $\text{Kg}(-1 \text{ power})$;

(ii) $[ss]$ is the concentration of suspended solids in the units mg/L ; and

(iii) $K_p = K_{po}[ss]^a$, where the values for K_{po} and a are given in the following table:

LINEAR PARTITION COEFFICIENTS FOR PRIORITY METALS IN STREAMS AND LAKES				
	Streams		Lakes	
Metal	K_{po}	a	K_{po}	a
Arsenic	0.48×10^6	-0.73	(Assumed to be equal to streams)	
Cadmium	4.00×10^6	-1.13	3.52×10^6	-0.92
Chromium	3.36×10^6	-0.93	2.17×10^6	-0.27
Copper	1.04×10^6	-0.74	2.85×10^6	-0.90
Lead	0.31×10^6	-0.19	2.04×10^6	-0.53
Mercury	2.9×10^6	-1.14	1.97×10^6	-1.17
Nickel	0.49×10^6	-0.57	2.21×10^6	-0.76
Zinc	1.25×10^6	-0.70	3.34×10^6	-0.68

(5) Time for Department Action on Application. The Department shall complete its review and either approve or deny use of the chemical translator within 6 months of receipt of the application.

(6) Use of the Chemical Translator. When the Department has completed its review and determined that the supporting data are satisfactory, the Department shall use the resulting ratio with the appropriate water quality criterion to obtain a revised value for use in the derivation of a permit limit.

(7) Unsatisfactory Chemical Translator. If the Department determines that the data are unsatisfactory, the Department may not use the resulting ratio supporting the chemical translator. The discharger shall be required by the Department to revise the application or select an alternative approach for establishing permit limits.

(8) Public Participation. Permit limits developed using the chemical translator shall be included in the draft NPDES permit and in the public participation process for permit review.

26.08.04.03 Monitoring, Recording, and Reporting for Discharge Permits.

A. Monitoring.

(1) A discharge authorized by a discharge permit shall be subject to any monitoring requirements the Department deems necessary, including:

(a) The installation, use, and maintenance of monitoring equipment or methods; and

(b) When appropriate, biological monitoring methods.

(2) Each permit shall specify the sampling and analysis requirements, including the frequency and type of sampling and analysis.

(3) Each permittee shall submit the name and address of the laboratory performing analyses within 30 days of the issuance of the State discharge or NPDES permit. If the permittee changes laboratories during the operating permit, the Department shall be notified within 30 days in writing.

B. Record Keeping.

(1) The permittee shall retain for a minimum of 3 years any records of monitoring activities and results including all:

(a) Raw data and original strip chart recordings;

(b) Calibration and maintenance records; and

(c) Reports.

(2) This period of retention shall be extended during the course of unresolved litigation regarding the discharge of pollutants, or when requested by the Department.

(3) All records of monitoring shall include for all samples:

(a) The date, exact place, time, and method of sampling;

(b) The dates of analyses;

(c) Who performed the analyses;

(d) The analytical techniques and methods used; and

(e) The results of the analyses.

C. Reporting.

(1) The permittee shall submit the monitoring results to the Department on the proper discharge monitoring report form.

(2) The report shall be submitted in the time frame required by each permit.

(3) The reporting period may not be less than once per year.

(4) Measurements below the minimum level may be reported as BML (below minimum level).

26.08.04.04 Sewage Treatment Works.

A. The person holding the permit for publicly owned treatment works or other sewage treatment works shall provide the Department with a notice concerning:

(1) The introduction of pollutants into these treatment works from any discharge of industrial waste for which a State discharge permit would be required if the discharge were made directly to the waters of the State; or

(2) Any substantial change in volume, character, or concentration of pollutants from any discharge of industrial waste being introduced into the treatment facilities.

B. The notice shall include the following:

(1) The quantity and quality of the discharge; and

(2) The anticipated impact of the discharge on the quantity and quality of the permittee's discharge.

C. Level of Required Treatment.

(1) Secondary Treatment. Secondary treatment shall be required as a minimum for sewage treatment works discharging into any waters of the State.

(2) Special Treatment Requirements for Discharge to Shellfish Harvesting Waters.

(a) Treatment sufficient to afford protection for shellfish harvesting waters shall be required for all sewage treatment works discharging into Use II waters.

(b) This treatment may require a higher level of secondary treatment or advanced waste treatment.

(c) These treatment works shall incorporate a bypass control system, including a minimum 24-hour emergency holding facility, and shall provide for biocide residual control.

(3) Advanced Waste Treatment Required. Advanced waste treatment as determined by waste load allocation shall be required for all sewage treatment works with a design capacity exceeding 1 million gallons per day and discharging into water quality limited waters. Advanced waste treatment may also be required for smaller sewage treatment works where the Department determines that this level of treatment is necessary.

(4) Special Advanced Wastewater Treatment Requirements. An effluent limitation of 2 milligrams/liter total phosphorus shall be required for all facilities discharging more than:

(a) 0.5 million gallons per day to the Chesapeake Bay and its tributaries above the Baltimore Harbor; and

(b) 10 million gallons per day in the vicinity of Baltimore Harbor to the Bay Bridge.

26.08.04.05 Reserved.

26.08.04.06 Term and Approval of Discharge Permit.

A. Term of Permit.

(1) The term of each discharge permit shall be for a maximum of 5 years, unless the permit is previously amended, suspended, or revoked.

(2) Each discharge permit shall specify the expiration date.

(3) If a timely and complete reapplication has been submitted and the Department, through no fault of the permittee, is unable to issue a new permit, the terms and conditions of the existing discharge permit shall continue and remain fully effective and enforceable.

B. Permittee Responsibility for Continuing Pollution Control. The issuance of a discharge permit by the Department does not relieve the permittee from the continuing responsibility for:

(1) The successful treatment and disposal of wastewater and other waste; and

(2) Compliance with applicable provisions of State and federal law and regulations.

26.08.04.07 Administration of Federal NPDES Program by the State.

A. The Department shall administer the National Pollutant Discharge Elimination System (NPDES) program as part of its own discharge permit system.

B. This administration shall be in accordance with:

- (1) Environment Article, Title 9, Annotated Code of Maryland;
- (2) This chapter; and
- (3) The Federal Act.

26.08.04.08 General Discharge Permit Program.

A. Purpose.

- (1) General permits are discharge permits issued to classes of discharges.
- (2) The Department intends to regulate certain classes of discharges through the issuance of general permits.
- (3) All discharges within the described class are permitted, subject to the specific conditions contained in the general permit.
- (4) Only those classes of discharges considered appropriate by the Department for regulation by this mechanism will be covered by a general permit.
- (5) All other dischargers are subject to the requirements of a separate discharge permit issued under Regulations .01 ----- .07 of this chapter and COMAR 26.08.08.

B. Classes of Discharges Eligible for Regulation under General Permits.

- (1) For the purpose of this section, the term "landfill" includes sanitary landfills as defined in COMAR 26.04.07 as well as any land containment or land disposal facility for industrial, commercial, or residential solid waste, whether publicly or privately owned or operated, or both.
- (2) The following classes of discharges may be regulated through the General Permit Program:
 - (a) Storm water discharges;
 - (b) Landfills or sludge-handling facilities designed to achieve natural attenuation of leachate, with no discharge to surface waters other than storm water runoff regulated under §B(2)(a) of this regulation;
 - (c) Individual on-lot domestic waste subsurface disposal systems permitted by the Department under Environment Article, Title 9, Subtitle 5, Annotated Code of Maryland, and COMAR 26.04.02;
 - (d) Municipal separate storm sewers;
 - (e) Ground water heat pumps discharging to waters of this State;
 - (f) Other categories of discharges as established under this regulation.

C. Permit Provisions. The Department shall prepare a draft permit for each specific class of dischargers under consideration for regulation according to the General Permit Program. The draft permit shall contain those general and special conditions and, if

appropriate, monitoring and reporting requirements considered necessary by the Department to protect public health and the environment.

D. Permit Coverage. Unless specifically indicated otherwise, a general permit issued under this regulation shall authorize all discharges satisfying the class description. The Department, at its discretion, may notify a discharger and require issuance of a separate State discharge permit under Regulations .01-----.07 of this chapter and COMAR 26.08.08.

E. Permit Duration. A general permit issued under this regulation shall be valid for a period not to exceed 5 years, and shall be renewed at the discretion of the Department according to G-----K of this regulation.

F. Discharges Authorized Under a General Permit. The requirements of G-----J of this regulation do not apply to the discharges authorized under a general permit, only to the issuance of the general permit itself.

G. Draft Permits and Tentative Determinations.

(1) The Department shall prepare a draft permit and a tentative determination for a specific class of dischargers to be regulated under the General Permit Program.

(2) A fact sheet shall also be prepared describing the class of dischargers to be regulated, outlining the proposed permit conditions and limitations, and specifying the procedures for a person to review and copy the tentative determination, draft permit, and related materials.

(3) The tentative determination shall include:

(a) A statement that the Department proposes to issue a general permit for a certain class of discharges;

(b) The procedures for a person to review and copy the tentative determination, draft permit, or related material;

(c) A brief explanation of the Department's tentative decision;

(d) Proposed permit limitations and conditions; and

(e) If applicable, a proposed schedule of compliance.

(4) Public Notice of Tentative Determination.

(a) The Department shall publish a public notice of the Department's tentative determination in the Maryland Register and according to Regulation .01-1E of this chapter.

(b) The notice of tentative determination shall include:

(i) The information required in §G(2) of this regulation;

(ii) A statement that the Department shall allow 30 days for public comment to the tentative determination before the issuance of the final determination and the procedure for submitting comments;

(iii) A statement that the Department shall hold a public hearing when a written request for a public hearing is made by a person within 20 days of the publication of the notice of tentative determination and the procedure for making a written request for a public hearing; and

(iv) Other information the Department determines to be necessary for adequate public notification.

(c) If the notice of tentative determination also includes a notice of public hearing, the notice of public hearing shall be given at least 30 days before the hearing.

H. Public Hearings.

(1) The Department shall schedule a public hearing on the tentative determination when a written request for a public hearing is made within 20 calendar days of the publication of the notice of tentative determination.

(2) The Department, at its own discretion, may hold:

(a) An informational meeting or meetings; or

(b) A public hearing or hearings.

(3) The public hearing may be cancelled if all persons who made timely written request for such a meeting withdraw their requests.

(4) If a public hearing is required, the Department shall:

(a) Publish a notice of the hearing according to Regulation .01-1E of this chapter, and the first notice shall give a minimum of 30 days notice before the hearing; and

(b) Publish a notice of the public hearing that includes:

(i) The information required under §G(2) of this regulation,

(ii) The date, time, and location of the public hearing, and

(iii) Other information the Department determines to be necessary for adequate public notification.

(5) The Department shall:

(a) Give a person who attends a public hearing an opportunity to make comments concerning the issuance of a general permit; and

(b) Accept written comments on the proposal to issue a general permit for at least 5 days after a public hearing.

I. Final Determinations for General Permits.

(1) If the Department is not required to prepare a final determination, the tentative determination shall be a final decision by the Department and a permit may be issued.

(2) The Department shall prepare a final determination if:

(a) Written comments adverse to the tentative determination were received by the Department within 30 days after publication of the notice of tentative determination;

(b) Comments adverse to the tentative determination were received in writing at, or within 5 days after, a public hearing held under the provisions of §H of this regulation;

(c) Comments adverse to the tentative determination were received orally at the public hearing conducted under this section and the Department prepared a transcript of the comments made at the hearing; or

(d) The final determination is substantively different from the tentative determination and persons who may be aggrieved by the final determination have not waived, in writing, their right to request a contested case hearing.

(3) Those persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Department's tentative determination is inappropriate, shall raise all reasonably ascertainable issues and submit all reasonably available arguments and documents supporting their position by the close of the public comment period, including any public hearing, as established by this chapter.

(4) Supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials.

(5) Those offering comments shall make supporting materials not already included in the administrative record available by submitting a complete copy of all supporting materials at the time they submit their comments or, if this submission is not practical, as determined solely by the Department, comments shall identify the location of the supporting materials.

(6) The final determination shall include the following:

(a) A description of the type of discharges to be included in the general permit;

(b) A statement of the Department's final determination and a brief explanation of the Department's decision;

(c) The permit limitations;

(d) The general and special permit conditions; and

(e) A schedule of compliance, if applicable.

(7) The final determination shall be available to the public for inspection and copying according to Regulation .01-1E of this chapter.

J. Notice of Final Determination.

(1) When the Department is required to prepare a final determination under §I of this regulation, a notice of final determination shall be published according to Regulation .01-1E of this chapter.

(2) The notice of final determination shall include:

(a) The information required under §I(3) (a)----(b) of this regulation, including any change in permit limitations, conditions, or schedule of compliance;

(b) A statement that the notice of final determination is available for inspection and copying;

(c) The procedure for inspecting and copying the final determination;

(d) A statement that a person may request a contested case hearing to appeal a final determination if the person makes factual allegations with sufficient particularity to demonstrate that the person is aggrieved by the final determination and the final determination is:

(i) Legally inconsistent with any provisions of law applicable to the final determination being challenged, or

(ii) Based upon an incorrect determination of a relevant and material fact;

(e) A statement that a person requesting a contested case hearing shall submit a written request for adjudication within 15 days after the publication of the notice of final determination;

(f) The procedure for requesting a contested case hearing; and

(g) Other information the Department determines to be necessary for adequate public notification.

K. Request for Contested Case Hearings for General Permits.

(1) A person may not request a contested case hearing on an individual discharge covered under a general permit adopted under the provisions of this chapter.

(2) A person requesting a contested case hearing to appeal the final determination of the Department to issue a general permit shall:

(a) Submit a written request in the manner specified in the notice of final determination within 15 days after publication of the notice of final determination; and

- (b) Provide documentation that the requirements of §I of this regulation were met.
- (3) Requests for a contested case hearing shall include:
 - (a) The name, address, and telephone number of the person filing the request;
 - (b) The particular factual allegations which demonstrate that the person is aggrieved by the final determination and the final determination is:
 - (i) Legally inconsistent with any provisions of law applicable to the final determination being challenged; or
 - (ii) Based on an incorrect determination of a relevant and material fact.
- (4) The Department shall process requests for contested case hearings according to State Government Article, Title 10, and Environment Article, Title 1, Annotated Code of Maryland.

26.08.04.09 General Discharge Permits.

A. General Discharge Permit for Storm Water Discharge Associated with Construction Activity.

- (1) Exception. Construction activity excluded under the Federal Act and regulated under COMAR 26.09.02 is not covered under this general permit.
- (2) Activities Covered. Activities covered under this general permit are new and existing storm water discharges that are composed in whole or in part of discharges associated with construction activity as regulated under the Federal Act and Environment Article, Title 4, Subtitles 1 and 2, Annotated Code of Maryland.
- (3) Need for Additional Permits. Storm water discharges which result from the completed construction authorized under this regulation may require additional authorization under other general permit regulations or an individual permit.
- (4) Application. Before the initiation of an activity covered under this permit, an applicant shall make application to the Department, including the payment of any fees.
- (5) Specific Requirements. A permittee shall comply with requirements to obtain approval for:
 - (a) Erosion and sediment control plans required under Environment Article, Title 4, Subtitle 1, Annotated Code of Maryland; and
 - (b) Storm water management plans required under Environment Article, Title 4, Subtitle 2, Annotated Code of Maryland.

B. General Discharge Permit for Storm Water Discharges Associated with Industrial Activity.

- (1) Exceptions. The following activities are not regulated under this general permit:
 - (a) Industrial storm water discharges with federal effluent guideline limitations;
 - (b) Storm water discharges associated with industrial activity from inactive mining or inactive oil and gas operations occurring on federal lands; and
 - (c) Storm water discharges for which the:
 - (i) NPDES permit has expired, has been terminated, or has been denied; or
 - (ii) Department requires an individual permit or a different general permit.

(2) Activities Covered. Existing storm water discharges that are comprised in whole or in part of storm water runoff associated with industrial activity are covered.

(3) Application. After the effective date of this regulation, an applicant shall make application to the Department, including the payment of any fees, for any existing or new discharge.

(4) Specific Requirements. Storm water discharge associated with industrial activity shall comply at all times with the provisions of:

(a) Environment Article, Title 7, Subtitle 2, Annotated Code of Maryland;

(b) Environment Article, Title 9, Subtitle 3, Annotated Code of Maryland; and

(c) The Federal Act.

C. General Permits for Municipal Separate Storm Sewer Systems.

(1) Definitions. "Municipal separate storm sewer systems" means systems that convey storm water runoff from municipalities as defined in the Federal Act or as designated by the Department in accordance with the Federal Act.

(2) Required Permits. The Department shall promulgate general permits as necessary to meet the requirements of the Federal Act, including permits for:

(a) Municipal separate storm sewer systems required to be permitted under the Federal Act; and

(b) Those systems designated by the Department in accordance with the Federal Act.

D. Specific Requirements for Landfills Designed for Natural Attenuation of Leachate with No Discharge to Surface Waters other than Storm Water Run-off.

(1) Landfills designed to achieve natural attenuation of leachate shall be designed, constructed, and operated in accordance with the specific provisions included in a permit issued by the Department pursuant to Environment Article, § 9-204, Annotated Code of Maryland.

(2) Storm water control systems at landfills are regulated through the general permit provisions specified in Regulation .08C(1) of this chapter.

E. Specific Requirements for Subsurface Sewage Disposal Systems.

(1) Subsurface sewage disposal systems shall include, but are not limited to, septic systems or aerated septic systems with appurtenant seepage pits or trenches, seepage pits, mound systems, or other disposal systems approved by the Department.

(2) The systems shall be designed, installed, and maintained in accordance with the specific conditions included in the permit issued pursuant to Environment Article, Title 9, Subtitle 5, Annotated Code of Maryland, and COMAR 26.04.02.

F. Ground Water Heat Pumps.

(1) Persons operating or planning to install a ground water heat pump not authorized by a separate State discharge permit shall, upon request of the Department, provide information concerning the system as installed or planned to be installed. The information shall include a map or sketch of the site, indicating the location of the source well, the discharge point or well, the well permit number or numbers, and, if appropriate, the name of the receiving streams. This information may be submitted to the Department through the local county health department.

(2) All permittees shall obtain a ground water appropriation permit from the Water Resources Administration and shall comply with all terms and conditions of that permit.

(3) All permittees shall obtain a well construction permit from the Department or, if appropriate, the responsible county agency.

G. Grading or Filling Activities Not Otherwise Regulated by the Department. If applicable, permittees shall obtain a permit or license issued pursuant to the Natural Resources Article, § 8-803, 9-202, or 9-306, Annotated Code of Maryland.

H. General Discharge Permit for Surface Coal Mines and Related Facilities.

(1) Exceptions. The following discharges are not covered under this general permit:

- (a) Discharges of toxic substances which exceed State water quality criteria for toxic substances;
- (b) Discharges which elevate temperature in Use III, Use III-P, Use IV, and Use IV-P streams;
- (c) Discharges of acid mine drainage from mine reclamation areas;
- (d) Discharges from coal mines commingled with other sources of wastewater, particularly wastes from underground mines; and
- (e) Discharges from underground coal mines.

(2) Eligible Discharges. This permit covers all new and existing discharges of storm water runoff and ground water seepage to surface waters of this State from:

- (a) Surface coal mines, including active mining areas, access roads, coal storage, and loading areas (tipples);
- (b) Independent coal storage and loading areas (tipples);
- (c) Coal preparation plants; and
- (d) Reclamation areas.

I. General Discharge Permit for Seafood Processors.

(1) Exceptions. A discharge permit is not required for outdoor crab shedding operations.

(2) Eligible Discharges. This permit covers the following new and existing discharges:

- (a) Wastewater from blue crab, oyster, and fish processing operations such as cleaning, preparing, and packing;
- (b) Auxiliary discharges, which are limited to noncontact cooling water, ice machine drainage, steam or cooling coil condensate, and inside crab shedding tray overflow; and
- (c) Storm water runoff from processing or material handling.

J. General Discharge Permit for Mineral Mines, Quarries, Borrow Pits, and Concrete and Asphalt Plants.

(1) Exceptions. This permit may not cover the following discharges:

- (a) Discharges from coal mines and associated facilities as regulated under 40 CFR 434; and
- (b) Discharges from industrial sand facilities as regulated by 40 CFR §436.40.

(2) Eligible Discharges. This permit covers all new and existing discharges of:

- (a) Infiltrated ground water pumped from mines to surface waters;
- (b) Wastewater from material processing to surface or ground waters;
- (c) Storm water runoff from mine sites, concrete plants, and asphalt plants to surface waters;

(d) Wastewater from washing mixer trucks and concrete mixing equipment to surface or ground waters; and

(e) Miscellaneous wastewater from spillage at ready-mix plants to surface or ground waters.

K. General Discharge Permit for Tanks, Pipes, and Other Liquid Containment Structures at Facilities Other Than Oil Terminals.

(1) Exceptions. This permit may not cover the following discharges:

(a) Discharges of any type from oil terminals;

(b) Tank bottom wastewater discharges to ground waters of the State;

(c) Wastewater from the washing of chemical and petroleum storage tanks, pipes, and pipelines; and

(d) Wastewater discharges to ground water that, before treatment, contain concentrations of benzene, lead, or other substances in excess of toxicity characteristic leaching procedure (TCLP) concentrations as defined in COMAR 26.13.02.14.

(2) Eligible Discharges. This general permit covers all new and existing discharges of:

(a) Treated tank bottom wastewater from storage tanks used only for gasoline, kerosene, fuel oil, no. 6 oil, or aviation fuel to surface waters;

(b) Wastewater from the flushing or hydrostatic testing of pipes, pipelines, or tanks, or wastewater from pipeline infiltration;

(c) Water in excess of 10,000 gallons per day as a monthly average from the overflow, flushing, or dewatering of reservoirs, tanks, or pipelines used for the storage or delivery of untreated water;

(d) Wastewater from cleaning or dewatering of vessels or structures used to store or convey potable water;

(e) Storm water discharges from storage tank containment structures; and

(f) Emergency discharges of potable water.

L. General Discharge Permit for Swimming Pools and Spas.

(1) Exceptions. This permit does not cover sanitary wastewater discharges associated with swimming pool and spa operations.

(2) Eligible Discharges. This permit covers discharges of filter backwash, cleaning water, overflow, and drainage from lowering or emptying a public or private pool or spa to surface or ground water.

M. General Discharge Permit for Marinas.

(1) Exceptions. This permit does not cover the following discharges:

(a) Storm water discharges that have shown, or may be reasonably expected to contribute to, a violation of a water quality standard;

(b) Storm water discharges for which the Department requires an individual permit or an alternative general permit; and

(c) Sanitary wastewater discharges.

(2) Eligible Discharges.

(a) This permit covers the following discharges from marinas and boat maintenance facilities:

(i) Storm water runoff to surface waters from areas involved in boat maintenance including boat rehabilitation, mechanical repairs, painting, and fueling, and boat or equipment cleaning operations;

- (ii) Wastewater discharges to surface or ground waters from washing of boats and boat equipment; and
 - (iii) Noncontact cooling water discharges such as from ice machines, refrigeration units, and other machinery to surface waters.
- (b) The discharge of 10,000 gallons per day or less of noncontact cooling water to ground water does not require a permit.

N. General Discharge Permit for Concentrated Animal Feeding Operations.

(1) Exceptions. This permit does not cover the following discharges:

(a) Point source discharges of wastewater to surface water except in the case of a storm water event greater than the 25-year, 24-hour storm; or

(b) Discharges from feedlots for ducks.

(2) Eligible Discharges. This permit covers ground water discharges via application of liquid wastewater to the soil surface. The following facilities shall have a discharge permit:

(a) Operations with more than 1,000 animal units or 55,000 turkeys;

(b) Operations with 30,000 or more chickens which produce a liquid waste stream (85 percent or more liquid); and

(c) Animal feeding facilities which have been or are a threat to surface water quality because:

(i) Confined animals come into direct contact with surface waters,

(ii) The Department determines, after a site inspection, that the animal feeding facilities are likely to discharge into waters of this State through a man-made conveyance (including spray irrigation) because the size of the animal feeding operation exceeds 300 animal units and wastewater is likely to be discharged, or

(iii) The Department determines, after a site inspection, that the animal feeding facilities are likely to discharge into waters of this State through a man-made conveyance (including spray irrigation) because the means of wastewater conveyance and site conditions including slope, lack of vegetative cover, and proximity to surface waters are likely to cause a discharge, and because water quality violations or the likelihood to discharge have previously been documented.

O. Storm Water and Hydrostatic Test Water from Oil Terminals.

(1) Exceptions. This permit does not cover discharges:

(a) Of industrial process wastewater from oil terminals or hydrostatic test water from non-oil terminals; or

(b) From oil terminals with a total aggregate tank capacity of at least 5 million gallons of oil which have marine or pipeline transfer capabilities.

(2) Eligible Discharges. This permit covers all new and existing discharges of storm water from storage tank dike and loading rack areas and hydrostatic test water from oil terminals to surface or ground waters of the State.

P. Treated Ground Water from Oil-Contaminated Ground Water Sources.

(1) Exceptions. This permit does not cover discharges of treated ground water contaminated with other volatile organic compounds or hazardous material (such as, but not limited to, TCE, TCA, DCE) other than oil.

(2) Eligible Discharges. This permit covers all new and existing discharges of treated ground water from oil-contaminated ground water sources which discharge to surface or ground waters of the State.

26.08.04.09-1 Fees for General Discharge Permits.

A. Applicability.

- (1) Intent. The Department may charge nonrefundable fees for certain general discharge permits as specified in this regulation.
- (2) Exemptions. Discharges associated with the following dischargers are exempt from this regulation:
 - (a) Publicly owned treatment works;
 - (b) Other treatment works which treat only sewage; and
 - (c) Facilities or persons culturing or raising aquatic organisms in enclosed systems discharging less than 1,000,000 gallons per day.

B. General.

- (1) Fees are based on the anticipated cost of program activities related to management of discharge to the waters of this State.
- (2) Persons engaging in an activity covered under a general permit for which a fee or fees are charged shall submit a notice of intent (NOI) form requesting inclusion under the general permit, accompanied by the appropriate fees, before the initiation of the activity.
- (3) The required fees shall be submitted with the Department's approved notice of intent (NOI) forms.
- (4) The Department may refuse to complete processing on any NOI if the applicant fails or refuses to pay the application fee.
- (5) When the Department questions a fee as submitted by the applicant, the Department shall notify the applicant in writing and a meeting shall be scheduled, if necessary, to resolve the dispute.
- (6) Fees collected by the Department under this regulation shall be paid into the Clean Water Fund. The fees shall be used for activities that are related to the management of discharge to the waters of this State.
- (7) The Department may require the retroactive payment of a general permit fee if the general permit becomes effective before the adoption of a regulation supporting this fee, if the fee was specified in the general permit at the time of general permit issuance.

C. Fees for General Storm Water Discharge Permits.

- (1) Storm Water Associated with Industrial Activity.
 - (a) The permit fee for storm water discharges associated with industrial activity shall be either a one-time payment of \$550 or an annual payment of \$120. The \$550 fee shall be submitted with the NOI. The alternative \$120 annual payment shall be submitted with the NOI and annually by July 1 of each year.
 - (b) Facilities which began operating after September 29, 1995, and were registered under the original general permit for storm water associated with industrial activity will be credited \$100 for each full calendar year they did not operate between January, 1993, and December, 1996.
 - (c) The fee for facilities which begin operating after October 1, 1997, shall be prorated on a monthly basis.
- (2) The application fees for storm water discharges associated with construction activity are as follows:

<i>Total Disturbed Area (Acres)</i>	<i>NOI Fee (Dollars)</i>
(a) 1 to less than 10	\$100;
(b) 10 to less than 15	\$500;
(c) 15 to less than 20	\$1,500;
(d) 20 and up	\$2,500;

D. Fee for Surface Coal Mine and Related Facilities Discharge.

(1) Annual Permit Fee.

The permittee shall pay an annual permit fee. The first annual fee shall be submitted to the Department with the NOI form. The Department will bill the permittee annually, and the fee shall be paid by the anniversary of the permit issuance each year after the first year.

(2) The annual permit fee is based on the total flow volume of effluent discharged from the facility, as determined by the storm water runoff volume calculation in §D(3) of this regulation.

<i>Average Discharge Volume (Gallons Per Day)</i>	<i>Annual Permit Fee (Dollars Per Year)</i>
Less than 1,000	\$175
1,000—5,000	\$525
5,001—50,000	\$1,100
50,001—100,000	\$2,100
100,001—250,000	\$3,100

(3) Calculation of Storm Water Runoff Volume. Storm water runoff volume is determined by the following method:

(a) Annual storm water runoff volume (gallons/day) = Annual rainfall (feet) x drainage area (square feet) x 7.48 x 0.15;

(b) Average storm water runoff volume (gallons/day) = Annual storm water runoff volume divided by 365.

(4) Alternative Storm Water Calculation. As an alternative to the method in §D(3) of this regulation, the permittee may submit a report to the Department which contains calculations of the average daily storm water runoff from the permitted facility. The Department shall make the final decision in determining the acceptability of the alternative method.

E. Fee for Discharges from Seafood Processors.

(1) Permit Fee.

(a) The permittee shall pay an annual permit fee. The first annual fee payment shall be submitted to the Department with the NOI form.

(b) The permit fee is based on the total volume of effluent discharged from the facility. The fees are:

<i>Average Daily Discharge Volume (Gallons Per Day)</i>	<i>Annual Permit Fee</i>
Less than 1,000	\$120
1,000—5,000	\$440
5,001—50,000	\$1,050
50,001—100,000	\$2,100
100,001—500,000	\$3,200

(c) The Department will bill the permittee annually, and the fee shall be paid each year by the anniversary date of the permit.

F. Fees for Discharges from Mineral Mines, Quarries, Borrow Pits, and Concrete and Asphalt Plants.

(1) Exemptions. Mineral mines, quarries, and borrow pits which discharge mining wastewater, process generated wastewater, and storm water to ground water only are exempt from the permit fee.

(2) Permit Fee.

(a) The permittee shall pay an annual permit fee. The first annual fee payment shall be submitted to the Department with the NOI form.

(b) The permit fee is based on the total volume of effluent discharged from the facility. The fees are:

<i>Average Daily Discharge Volume (Gallons Per Day)</i>	<i>Annual Permit Fee</i>
Less than 1,000	\$110
1,000—5,000	\$275
5,001—50,000	\$600
50,001—100,000	\$1175
100,001—250,000	\$1740
250,001—1,000,000	\$2300
Greater than 1,000,000	\$2875

(c) The Department will bill the permittee annually, and the fee shall be paid each year by the anniversary date of the permit.

G. Fees for Discharges from Tanks, Pipes, and Other Liquid Containment Structures at Facilities Other Than Oil Terminals.

(1) Exemptions. Discharges from tanks, pipes, and other liquid containment structures associated with drinking water supplies are exempt from the permit fee.

(2) Permit Fee.

(a) The permittee shall pay a permit fee with the NOI form and each additional year the permit is held.

(b) The discharge permit fee is based on the total volume of effluent discharged from the facility. The permit fees for the first and subsequent years are:

<i>Average Daily Discharge Volume (Gallons Per Day)</i>	<i>One Year Fee</i>	<i>Fee Each Additional Year</i>
Less than 1,000	\$175	\$100
1,000—5,000	\$250	\$100
5,000—50,000	\$325	\$100
50,001—100,000	\$500	\$400
100,001—250,000	\$950	\$400
250,001—1,000,000	\$2000	\$400
Greater than 1,000,000	\$4000	\$1000

(c) The Department will bill the permittee annually, and the fee shall be paid each year by the anniversary date of the permit.

H. Fee for Discharges from Swimming Pools and Spas; Notice of Intent (NOI) Fee. Persons seeking coverage under this general permit shall submit an NOI together with a fee of \$100 for each facility. A fee is not required with the NOI submission for the registration of pools owned by municipalities, counties, or the State. Owners of pools or spas serving individual residences are not required to submit an NOI or pay a fee.

I. Fee for Discharges from Marinas; NOI Fee.

(1) Persons seeking coverage under this general permit shall submit an NOI together with the following fee depending upon the number of slips available at the marina:

<i>Number of Slips</i>	<i>Fee</i>
200 or more slips	\$500

100 or more and fewer than 200 slips	\$400
50 or more and fewer than 100 slips	\$300
10 or more and fewer than 50 slips	\$200
fewer than 10 slips	\$100

(2) Facilities already registered under 92-GP-0001 shall pay the lesser of the above fee or a fee of \$350 before September, 1997, to register for this permit.

J. Fee for Discharges from Concentrated Animal Feeding Operations.

(1) NOI Fee. Persons seeking coverage under this general permit shall submit an NOI together with the following fee:

<i>Average Daily Discharge Volume (gallons/day)</i>	<i>Volume Fee</i>
Less than 1,000	\$100
1,000-5,000	\$200
5,000-50,000	\$300
50,001-100,000	\$400
100,001-250,000	\$1,000
250,001-1,000,000	\$2,000
Greater than 1,000,000	\$4,000

(2) Discharge Permit Fee.

(a) The Department shall calculate the discharge permit fee and shall bill permittees with more than 300 animal units. This fee shall be paid by July 1 of the billing year.

(b) The discharge permit fee is based on the total flow volume of effluent discharged from the facility. Facilities discharging less than 5,000 gallons per day shall pay the following fees for the life of the permit:

<i>Average Daily Discharge Volume (gallons/day)</i>	<i>Permit Fee</i>
Less than 1,000	\$500
1,000-5,000	\$2,000

(c) The discharge fees for facilities discharging more than 5,000 gallons per day shall be billed and collected annually. The following discharge permit fees shall be collected based on the total volume of effluent discharged from the facility:

<i>Average Daily Discharge Volume (gallons/day)</i>	<i>Volume Fee</i>
5,001-50,000	\$1,000
50,001-100,000	\$2,000
100,001-250,000	\$3,000
250,001-1,000,000	\$4,000
Greater than 1,000,000	\$5,000

(3) If the Department questions the fee, the Department shall follow the procedure in §B(5) of this regulation.

K. Storm Water and Hydrostatic Test Water from an Oil Terminal and Treated Ground Water NOI Fees.

(1) A person who intends to obtain coverage under the general discharge permit for storm water and hydrostatic test water from oil terminals or the general discharge permit for treated ground water from oil-contaminated ground water sources shall submit to the Department a fee of \$120 per year.

(2) The fee shall be submitted with the NOI application and every July 1 after that.

(3) Fees may be prorated on a monthly basis.

26.08.04.10 Permit Review and Modification.

A. General.

(1) The Department may review or modify any State discharge permit or other written authorization describing required performance for specific activities and operations under the procedures set forth in this regulation.

(2) When a permit is modified, only the conditions subject to modification are reopened.

B. Permit Review. The Department of the Environment may review any permit which it has issued in order to determine whether the:

(1) Conditions of the permit have been complied with; and

(2) Permit should properly be modified, suspended, or revoked.

C. Minor Modification of Permits.

(1) The Department may modify a permit to make minor modifications in the permitted activity.

(2) A minor modification requested by a permittee shall be in writing.

(3) Minor modifications may only:

(a) Correct typographical errors;

(b) Require more frequent monitoring or reporting by the permittee;

(c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

(d) Allow for a change in ownership or operational control of a facility when the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Department;

(e) Change the construction schedule for a discharger which is a new source if the change does not affect the discharger's obligation to have all pollution control equipment installed and in operation before discharge;

(f) Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits; or

(g) Incorporate conditions of a pretreatment program that has been approved in accordance with COMAR 26.08.08.

D. Major Permit Modification Request by Permittee.

(1) A permittee may request modification of the permit by submitting a written request to the Department.

- (2) Upon receipt, the Department shall review the request and promptly notify the permittee of its decision.
- (3) If the Department decides to grant the permittee's request, permit modifications shall be processed by the Department according to Regulations .01-----.02-4 of this chapter.
- (4) The Department of the Environment, upon written request of the applicant, may revise or modify a schedule of compliance without a hearing if:
 - (a) It determines good and valid cause exists for the revision or modification, such as an act of God, materials shortage, or other event over which the permittee has no control; and
 - (b) Within 30 days following receipt of notice from the Department, the Administrator of the EPA, or his designated representative, does not object in writing.

26.08.04.10-1 Permit Suspension and Revocation.

A. Action on Permit Violation.

- (1) Under conditions other than emergency, if the Department determines that there has been a violation of any term or condition of a permit, the Department shall serve a written complaint upon the permittee specifying the nature of the violation. Subsequent to, or concurrent with, service of the complaint, the Department may exercise one of the following options, under the provisions of Environment Article, §9-335, Annotated Code of Maryland:
 - (a) Issue an order requiring necessary corrective action to be taken within the time prescribed in its order. A person named in the order may request in writing a hearing before the Department not later than 10 days after the date the order is served, in which case a hearing shall be scheduled within 10 days from receipt of the request. A decision shall be rendered within 10 days from the date of the hearing.
 - (b) Require the alleged violator to file a written report regarding the alleged violation.
 - (c) Require the alleged violator to appear before the Department at a time and place the Department specifies to answer the charge outlined in the complaint.
 - (d) Require the alleged violator to file a written report regarding the alleged violation and appear before the Department at a time and place the Department specifies to answer the charges outlined in the complaint.
- (2) Every order the Department issues under this regulation shall be served on the person affected according to Environment Article, §9-336, Annotated Code of Maryland. The order shall become effective immediately according to the order's terms upon service.
- (3) If the Department exercises the option provided by §A(1)(b) of this regulation, the alleged violator may request in writing a hearing before the Department not later than 10 days after the date that notice of the requirement of the written report is served.
- (4) The appearance of the alleged violator before the Department under the options provided by §A(1)(c) or (d) of this regulation constitutes an administrative hearing and the party has the right of any party in a contested case provided in State Government Article, Title 10, and Environment Article, Title 1, Annotated Code of Maryland.
- (5) If the Department exercises any of the options provided by §A(1)(a), (c), or (d) of this regulation, the Department shall notify the permittee of the consequences of not attending the hearing or, in the case of option §A(1)(b), not filing the written report.
- (6) If the Department exercises the option provided by §A(1)(b), (c), or (d) of this regulation, it may not issue an order requiring corrective action to be taken as a result of the alleged violation before expiration of the time set for filing any report and holding any hearing required under these sections. After that, the Department may issue an order requiring necessary corrective action be taken within the time prescribed in the order. A person is not entitled to a hearing before the Department as a result of this order.

(7) Notice of a hearing or of a requirement that a written report be filed shall be served on the alleged violator under Environment Article, 9-335 ----- 9-337, Annotated Code of Maryland, not less than 10 days before the time set for the hearing or filing of a report.

(8) Requests for hearings shall be processed and the hearings conducted according to State Government Article, Title 10, and Environment Article, Title 1, Annotated Code of Maryland, and the requirements of this chapter.

B. Administrative Action With Regard to Permit. If the permittee fails to comply with the requirements of an administrative order under §A(1) of this regulation, a permit may be modified or suspended. Modification or suspension of a permit shall be effective without stay upon receipt by the permittee of appropriate notice. Upon written request for a hearing by the permittee in accordance with the procedure specified in §A(3) of this regulation, a hearing shall be held, but the administrative action may not be stayed pending the hearing.

C. Emergency Action.

(1) The Department may summarily modify or suspend a permit when the Department finds that the protection of public health, safety, or welfare requires immediate emergency action.

(2) The emergency modification or suspension of a permit shall be effective without stay upon receipt by the permittee of appropriate notice.

(3) The Department shall notify the permittee in writing that the permit has been modified or suspended for emergency reasons. The notice shall include:

- (a) The finding of necessity for suspension or modification;
- (b) The reasons that support the findings;
- (c) A statement that the permittee has the right to a hearing concerning the Department's action;
- (d) A statement that the permittee has 10 days to request a hearing;
- (e) The procedure for requesting a contested case hearing;
- (f) The consequences of not requesting or not attending a hearing; and
- (g) A statement that the permit suspension or modification is effective without stay upon receipt by the permittee.

D. Permit Revocation.

(1) A permit may be revoked after notice to the permittee and opportunity for a hearing, if the Department determines that any of the following have occurred:

- (a) The permittee has failed to comply with the requirements of an administrative action according to §A, B, or C of this regulation;
- (b) False or inaccurate information was contained in the application for the permit;
- (c) Conditions or requirements of the permit have been or are about to be violated;
- (d) Substantial deviation from plans, specifications, or requirements has occurred;
- (e) The permittee has failed to permit an authorized representative of the Department upon presentation of proper credentials to:
 - (i) Enter at any reasonable time upon permittee's premise where a point source is located, pertinent operations are conducted, or records are required to be kept under terms and conditions of the permit;
 - (ii) Have access to and copy any records required to be kept under terms and conditions of the permit;

- (iii) Inspect facilities to ensure compliance with the conditions of the permit;
 - (iv) Inspect any monitoring equipment or method required in the permit; or
 - (v) Sample any discharge or pollutants;
 - (f) Change in conditions exists requiring temporary or permanent reduction or elimination of the permitted operation or discharge;
 - (g) Any State or federal water quality stream standard or effluent standard has been or is threatened to be violated; or
 - (h) Any other good cause exists for revoking the discharge permit.
- (2) The permittee has the right to a hearing concerning the revocation of the permit upon a request in writing not later than 10 days after the date on which the revocation notice is served. The Department shall schedule a hearing within 10 days from receipt of the request and give a decision within 10 days from the date of the hearing.
- E. The hearings in B, C, and D of this regulation shall be conducted according to State Government Article, Title 10, and Environment Article, Title 1, Annotated Code of Maryland.

26.08.04.11 Discharge Permit Fees.

A. General Requirements.

- (1) Fees collected by the Department under this regulation shall be paid into the Maryland Clean Water Fund. The fees shall be used for activities that are related to identifying, monitoring, and regulating the proper discharge of effluent into waters of the State including program development of these activities.
- (2) Persons or facilities holding or obtaining State discharge permits, except for those in categories listed below, shall pay both an annual permit fee and an application fee, including any additional cost as required in §C(10) of this regulation:
- (a) Publicly owned treatment works;
 - (b) Other treatment works which treat only sewage;
 - (c) Persons covered under a general permit as described in Regulations .08 and .09 of this chapter; or
 - (d) Facilities or persons culturing or raising aquatic organisms in enclosed systems discharging less than 1 million gallons per day.
- (3) Both permit fees and application fees are based on the total flow of all effluents discharged from a facility except for:
- (a) Uncontaminated stormwater runoff; and
 - (b) Thermal discharge flows which have previously been evaluated by the Department in accordance with COMAR 26.08.03.03C(2).

B. Permit Fees.

- (1) The permit fee is based on the anticipated:

(a) Cost of monitoring and regulating the permitted facility; and

(b) Needs for program development activities related to management of discharge of pollution to waters of this State.

(2) The permit fee is based on the total flow volume of effluent discharged from the facility. The fees are as follows:

Average Discharge Volume (gallons per day)	Permit Fee (per year)
Less than 1,000	\$100
1,000-----5,000	400
5,001-----50,000	1,000
50,001-----100,000	2,000
100,001-----250,000	3,000
250,001-----1,000,000	4,000
Greater than 1,000,000	5,000

(3) The Department will calculate permit fees annually and will bill the permittee. The permit fees shall be paid within 30 days of receipt of the bill, unless the permittee questions the calculations or assumptions, or both, used to arrive at the fee. In which case, the Department shall be notified in writing within 15 days of receipt of the bill, and a meeting shall be scheduled, if necessary, within 10 days to resolve the dispute.

(4) Permit fees shall be paid by July 1 of each year to cover the expenses of the ensuing fiscal year. Fees for those permits which will be in effect for less than the full fiscal year shall be prorated for the number of months of the fiscal year during which the permit is in effect.

(5) The Department may refuse to issue or renew a discharge permit or may revoke a discharge permit if the applicant fails or refuses to pay the permit fee.

C. Application Fees.

(1) An application fee shall be paid for:

(a) An application for a new discharge permit;

(b) An application to renew a discharge permit; or

(c) A request to modify a discharge permit if the modification is considered significant by the Department.

(2) The application fee is based on the cost of the permit procedure.

(3) The minimum application fee is \$50.

(4) The application fee is calculated by the following formula: Application fee = volume fee x industry factor x water use factor.

(5) Volume Fees.

(a) Volume fees are determined as follows:

Average Discharge Volume (gallons per day)	Volume Fee
Less than 1,000	\$50
1,000-----5,000	100
5,001-----50,000	150
50,001-----100,000	200
100,001-----250,000	500
250,001-----1,000,000	1,000
Greater than 1,000,000	2,000

(b) Volume fees for permit modifications are based only on the discharge volume associated with those operations affected by the modification.

(6) Industry Factors.

(a) The industry factors are determined as follows:

Industry Type	Industry Factor
Primary industry as listed in 40 CFR Part 122, Appendix A, which is incorporated by reference	5
Non-primary industry but on the Department's major facility list	5
All others	1

(b) Facilities which wash cars, trucks, or other vehicles are not considered to be primary industries for the purposes of §C(6).

(7) Water Use Factor.

(a) The water use factor is determined as follows:

Water Use	Water Use Factor
Process use	2.0
Cooling	
Once-through-----no additives	0.5
Once-through-----with additives	1.0
Contact	1.5
Other (includes but is not limited to boiler blowdown, cooling tower blowdown, steam condensate, sewage, and stormwater runoff)	1.0

(b) When a facility has more than one type of water use, the highest of the applicable water use factors should be used.

(8) The Department will calculate the application fee upon receipt of an application for a new permit, permit renewal, or permit modification and will bill the applicant. The application fee shall be paid within 30 days of receipt of the bill, unless the permittee questions the calculations or assumptions, or both, used to arrive at the

fee. In which case, the Department shall be notified in writing within 15 days of receipt of the bill, and a meeting shall be scheduled, if necessary, within 10 days to resolve the dispute.

(9) The Department may refuse to complete processing on any new or renewed permit or on any permit modification if the applicant fails or refuses to pay the application fee.

(10) In addition to the application fee calculated in accordance with §C(4) of this regulation, the Department shall assess the applicant for any cost associated with evaluating or reviewing mixing zone studies, variance petitions, site-specific criteria studies, chemical or biological translator studies, or any other studies submitted as part of an application to determine discharge permit requirements. For the purposes of this assessment:

(a) The minimum fee for each component (for example, mixing zone, variance, etc.) will be established at \$5,000; and

(b) The Department shall:

(i) Obtain and provide to the applicant an estimate for any additional costs incurred as part of the evaluation or review,

(ii) Obtain the applicant's concurrence, and

(iii) Bill the applicant before the beginning of the evaluation or review.

D. Calculation of Stormwater Runoff Volume. Stormwater runoff volume shall be determined by the following method:

(1) Annual stormwater runoff volume = Annual rainfall (feet) x drainage area (square feet) x 7.48 x runoff coefficient;

(2) Average stormwater runoff volume = Annual stormwater runoff volume divided by 365;

(3) As an alternative to this method, the permittee may submit a report to the Department which contains calculations of the average daily stormwater runoff from the permitted facility.

E. For storm water discharges eligible for coverage under Regulation .09 of this chapter, the portion of the permit fee calculated in Regulation .11 of this chapter may not exceed \$100 per year.

Administrative History

Effective date: September 1, 1974 (1:1 Md. R. 33)

COMAR 10.50.01.08, .09, .12, and .14 recodified to COMAR 26.08.04.01, .02, .03, and .04, respectively

COMAR 10.50.01.08J-1 recodified to COMAR 26.08.08.01—.04

Regulation .01B, N amended effective August 3, 1981 (8:15 Md. R. 1308)

Regulation .01E amended effective June 6, 1983 (10:11 Md. R. 976)

Regulation .01G amended effective July 27, 1987 (14:15 Md. R. 1660)

Regulation .01J amended effective May 24, 1982 (9:10 Md. R. 1022); December 19, 1983 (10:25 Md. R. 2269); June 17, 1985 (12:12 Md. R. 1165); August 26, 1985 (12:17 Md. R. 1706)

Regulation .01M amended effective June 17, 1985 (12:12 Md. R. 1166)

Regulation .01N adopted effective March 9, 1979 (6:5 Md. R. 444)

Regulation .02 adopted effective December 7, 1981 (8:24 Md. R. 1935)

Regulation .03A amended effective December 19, 1983 (10:25 Md. R. 2269)

Regulation .04 adopted effective February 25, 1985 (12:4 Md. R. 360)

Chapter revised effective June 27, 1988 (15:13 Md. R. 1556)

Regulation .01 amended effective April 15, 1991 (18:7 Md. R. 775)

Regulation .01 amended and recodified to Regulations .01—.01-3 effective November 6, 1995 (22:22 Md. R. 1670)

Regulation .01B amended effective September 27, 1993 (20:19 Md. R. 1473)

Regulation .01G amended effective June 7, 1993 (20:11 Md. R. 917)

Regulation .01-1E amended effective March 25, 1996 (23:6 Md. R. 477)

Regulation .01-3A, C amended effective March 25, 1996 (23:6 Md. R. 477)

Regulation .02 amended effective April 16, 1990 (17:7 Md. R. 854); April 15, 1991 (18:7 Md. R. 775); June 7, 1993 (20:11 Md. R. 917); November 6, 1995 (22:22 Md. R. 1670)

Regulations .02-1—.02-4 adopted effective June 7, 1993 (20:11 Md. R. 917)

Regulation .02-3 amended effective November 6, 1995 (22:22 Md. R. 1670)

Regulation .02-3C amended effective July 5, 2004 (31:13 Md. R. 995)

Regulation .03 amended effective April 16, 1990 (17:7 Md. R. 854); November 6, 1995 (22:22 Md. R. 1670)

Regulation .03C amended effective June 7, 1993 (20:11 Md. R. 917)

Regulation .04 amended effective November 6, 1995 (22:22 Md. R. 1670)

Regulation .04C amended effective May 1, 1989 (16:8 Md. R. 911); April 16, 1990 (17:7 Md. R. 854)

Regulation .06 amended effective November 6, 1995 (22:22 Md. R. 1670)

Regulation .06A amended effective April 15, 1991 (18:7 Md. R. 775)

Regulation .07 amended effective April 15, 1991 (18:7 Md. R. 775)

Regulation .08 amended effective November 6, 1995 (22:22 Md. R. 1670); March 25, 1996 (23:6 Md. R. 477)

Regulation .08B amended effective April 15, 1991 (18:7 Md. R. 775)

Regulation .08C, D amended effective September 27, 1993 (20:19 Md. R. 1473)

Regulation .09 amended effective September 27, 1993 (20:19 Md. R. 1473)

Regulation .09H adopted effective October 24, 1994 (21:21 Md. R. 1815)

Regulation .09I—K adopted effective July 31, 1995 (22:15 Md. R. 1122)

Regulation .09L—N adopted effective December 16, 1996 (23:25 Md. R. 1786)

Regulation .09O, P adopted effective April 7, 1997 (24:8 Md. R. 617)

Regulation .09-1 adopted effective September 27, 1993 (20:19 Md. R. 1473)

Regulation .09-1A, C amended and K adopted effective April 7, 1997 (24:8 Md. R. 617)

Regulation .09-1B amended effective October 24, 1994 (21:21 Md. R. 1815); July 31, 1995 (22:15 Md. R. 1122)

Regulation .09-1C amended effective February 14, 1994 (21:3 Md. R. 197); October 20, 1997 (24:21 Md. R. 1453)

Regulation .09-1C amended as an emergency provision effective March 1, 2003 (30:6 Md. R. 417); amended permanently effective June 23, 2003 (30:12 Md. R. 792)

Regulation .09-1D adopted effective October 24, 1994 (21:21 Md. R. 1815)

Regulation .09-1D amended effective February 21, 2000 (27:3 Md. R. 327)

Regulation .09-1E—G amended effective August 21, 2000 (27:16 Md. R. 1526)

Regulation .09-1H—J adopted effective December 16, 1996 (23:25 Md. R. 1786)

Regulation .10 amended and recodified to Regulations .10 and .10-1 effective November 6, 1995 (22:22 Md. R. 1670)

Regulation .10C amended effective April 15, 1991 (18:7 Md. R. 775)

Regulation .11A amended effective July 9, 1990 (17:13 Md. R. 1614); June 7, 1993 (20:11 Md. R. 917)

Regulation .11B amended effective April 17, 1989 (16:7 Md. R. 813); June 21, 1993 (20:12 Md. R. 997)

Regulation .11C amended effective April 15, 1991 (18:7 Md. R. 775); June 7, 1993 (20:11 Md. R. 917); June 21, 1993 (20:12 Md. R. 997)

Regulation .11E adopted effective October 20, 1997 (24:21 Md. R. 1453)